IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 2024 of 2007()

CMP.2523/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY

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PETITIONER: IST ACCUSED

NISHIL,S/O.RAMACHANDRAN,POLY GARDEN ROAD
PAYYAPPAT HOUSE,POLY GARDEN ROAD,
LAKKIDI,OTTAPPALAM.

BY ADV. SRI.MANSOOR.B.H.
SMT.P.B.WAHIDA

RESPONDENTS: COMPLAINANT

STATION HOUSE OFFICER (CRIME NO.411/07)
PAZHAYANNOOR POLICE STATION, REP.BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/06/2007, A/W. CRMC 2026 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 2024 & 2026 of 2007

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Dated this the 26th day of June, 2007

O R D E R

The common petitioner has filed these petitions aggrieved by the conditions imposed on him by the learned Magistrate when he was granted bail by default under Section 167 Cr.P.C. on the ground that final report has not been filed within the period stipulated by law. The petitioner faces allegations for offences punishable under Sections 402 and 394 I.P.C. in these cases. The learned Magistrate insisted that two sureties must execute bonds along with the petitioner for an amount of Rs.25,000/- It was further directed that possession certificate must be produced by the sureties. There was also a direction that the original title deeds must be deposited in court. The learned counsel for the petitioner submits that these conditions are onerous and virtually denies the petitioner the opportunity to get himself released on bail by default under Section 167 Cr.P.C.

2. I have considered the submissions of the learned counsel for the petitioner. I take note of the fact that the petitioner is in custody from 10.2.2007. I am unable to agree that the condition that the

sureties must deposit the title deed is onerous as to persuade this court to invoke the powers under Section 482 Cr.P.C. However, I accept the submission of the learned counsel for the petitioner that the direction that the sureties shall produce possession certificates can certainly be avoided as that would involve considerable delay and would further delay the release of the petitioner from custody.

3. These Crl.M.Cs. are allowed in part. The directions in the impugned orders that the sureties shall produce possession certificate from the Village Officer in respect of the properties is deleted.

4. The learned counsel for the petitioner submits that the learned Magistrate is prone to insist on documents to show that there is no encumbrance on the property at all. The petitioner's sureties own properties along with certain minors and insistence that no minor should have right in the property would work out prejudice and hardship to the petitioner, it is submitted. Sureties are offering themselves as sureties and it is enough if the sureties have right in the property which would be sufficient to secure the interest of bail. Clear, complete and marketable title

in respect of the property for the sureties need not, of course, be insisted. It is sufficient if the documents produced show that the sureties have right in the property and are solvent to the extent of the amount of the bond.

(R. BASANT)
Judge

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